THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9357 of 2007

Dated: 23.07.2007

Between:
M.A. Kareem.

..... PETITIONER

AND

The Chairman, A.P. State Minorities
Finance Corporation Limited, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 9357 of 2007

Order:

This writ petition is filed seeking a Mandamus declaring the action of respondent No.2 in not reinstating the petitioner into service as Executive Director, A.P. State Minorities Finance Corporation, Branch Office, Kurnool, as per the orders of respondent No.1, dated 17.01.2007, as illegal and arbitrary, and consequently to direct respondent No.2 to pass appropriate orders reinstating the petitioner into service forthwith.

The petitioner, while working as Executive Director of A.P. State Minorities Finance Corporation, at Kurnool, was suspended, vide proceedings dated 30.06.2006 of respondent No.2, on the ground that he committed certain financial irregularities in implementing the minorities welfare schemes. Questioning the said suspension orders, the petitioner filed W.P. No. 13703 of 2006, and this Court, by order dated 11.08.2006, disposed of the said writ petition with a direction to the petitioner to file an appeal under Rule 27 of the A.P. State Minorities Finance Corporation Employees Service Rules, 1983, and on filing such appeal, the respondents shall consider the same and pass appropriate orders on its own merits expeditiously. Pursuant thereto, the petitioner filed an appeal before respondent No.1 on 09.11.2006, and respondent No.1, after considering the said appeal, passed an order dated 17.01.2007 ordering to reinstate the petitioner into service pending final enquiry. The grievance of the petitioner is that in spite of the specific orders of respondent No.1, no action has been taken by respondent No.2 for his reinstatement till date. Hence, he filed the present writ petition.

A detailed counter affidavit is filed on behalf of respondent Nos.1 and 2. The stand of the respondents is that the petitioner has not filed

any representation or appeal before them.

On the other hand, learned counsel for the petitioner has produced Xerox copy of representation/appeal filed by the petitioner on 09.11.2006, wherein an endorsement is made by Sri Farooq Hussain, Chairman, A.P. State Minorities Finance Corporation, showing that the said representation/appeal was received on 20.11.2006. She also produced Xerox copy of the report dated 17.01.2007, said to have been passed by respondent No.1, namely the Chairman, A.P. State Minorities Finance Corporation, on the appeal filed by the petitioner, wherein he observed thus:

> "Considering the ground realities and the length of suspension period i.e., more than (6) months duly exercising powers as appellate authority under APSMFC Employees Services Disciplinary Appeal Rules 1985 Rule No. 24(3), I hereby order for conduct reinstatement of Sri M.A. Kareem, E.D. under suspension and post in non focal point pending final enquiry, as there is abnormal delay in concluding the final enquiry.
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> Further I also order to expedite the enquiry process and complete the final enquiry at an earliest to avoid any legal complication."

But, the learned Standing Counsel for the respondents has rejected the contention of the learned counsel for the petitioner and submitted that the alleged report of respondent No.1 dated 17.01.2007 is not available in the office record of respondent No.2. The original file produced by the learned Standing Counsel for the respondents also does not disclose the orders dated 17.01.2007, passed by respondent No.1. In fact, a notice was served to respondent No.1 by respondent No.2-Office requesting him to submit the original file relating to orders passed by him on 17.01.2007 in respect of the petitioner. Even though the said letter was received by the Ex-Chairman i.e., respondent No.1 on 18.07.2007, till date he has not furnished any such record. On a perusal of the original file, produced by the respondents, it is revealed that as on date there is no order passed by respondent No.1 available in the office

record of respondent No.2. Further, it is brought to the notice of this Court that the term of Farooq Hussain as Chairman has expired on 23.01.2007 itself, and the Principal Secretary of the Minorities Finance Corporation is the present Chairman of the respondent-Corporation.

In the circumstances, it is agreed by both the counsel that the writ petition be disposed of with a direction to the petitioner again to file an appeal before respondent No.1.

Having regard to the facts and circumstances of the case, and in view of the agreed stand taken by both the counsel,

I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to file an appeal before respondent No.1, against the impugned suspension order, within a period of one week from today, and on filing such appeal, respondent No.1, namely Principal Secretary-cum-Chairman, A.P. State Minorities Finance Corporation Limited, Hyderabad, shall consider the same and pass appropriate orders thereon in accordance with law, expeditiously.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 23.07.2007
Nsr